

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4983 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

METHODIST SCHOOL OF NURSING

Versus

STATE OF GUJARAT

Appearance:

MR PM THAKKAR for Petitioner

MR V.M. PANCHOLI, AGP for Respondent No. 1

MR DA BAMBHANIA for Respondent No. 2

MR GIRISH PATEL for Respondent No. 3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 02/11/1999

ORAL JUDGEMENT

The petitioner challenges the order of the respondent No.2 - Assistant Commissioner of Labour, Nadiad at Annexure "E" to the petition, by which he referred the dispute to the Labour Court regarding

reinstatement of Smt. Floraben M. Christie, the respondent No.3 herein, on her original post and payment of backwages. The order was made on 11.2.1985.

The further proceedings pursuant to the reference were stayed on 24.9.1987 by this Court and interim relief has been continued after rule was issued in the petition on 13.4.1988.

When this matter is called out for final hearing, the learned Counsel for the petitioner states that the services of the respondent have never been terminated and she has been continuing in service and paid regularly her dues by the petitioner. It appears that even on 24.9.1987 it was stated on behalf of the petitioner before the Court, which fact is recorded in the order endorsed on the petition, that the third respondent's employment was never terminated by the petitioner management and that she continued to be in employment on regular payment of salary. It is stated that since then she has also been confirmed and her wages are not in arrears. Attention is drawn to the letter dated 1.3.1984 at Annexure "C" to the petition, stating that the respondent No.3 was confirmed in service from 1.3.1984. Attention is also drawn to the letter dated 3.1.1985 addressed by the petitioner to the Assistant Labour Commissioner, in which it was stated that the respondent No.3 continued as a cook in the petitioner's service with all benefits and that the dispute was not maintainable. The learned Counsel appearing for the respondent No.3 also confirms these facts. Since the petitioner has been continuing in service and her services were infact never terminated as stated on behalf of the petitioner before this Court, there obviously arose no dispute which could have been referred. In any event, since according to the petitioner, not only the respondent No.3 has been continuing in service, but she has since been confirmed, there is no dispute which requires to be referred and the impugned reference has become infructuous. Rule is made absolute accordingly with no order as to costs. The respondent No.3 will be at liberty to move the Court in case of any difficulty.

*/Mohandas